

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
CHARLESTON DIVISION

Yahya Muqit, #318455,  
a/k/a Yayha Muquit,

Plaintiff,

v.

Leeroy Cartledge (Warden); Frank Muzier,  
Major; L. Holmes, Grievance Coordinator;  
John Ozmint, Director of SCDC; and  
J.C. Young (Mail Room Clerk),

Defendants.

C/A NO. 2:09-785-CMC-RSC

**OPINION and ORDER**

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DISTRICT COURT  
DISTRICT OF SOUTH CAROLINA  
CHARLESTON, SC

This matter is before the court on Plaintiff's *pro se* complaint, filed in this court pursuant to 42 U.S.C. § 1983.

In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02 (B)(2)(d), DSC, this matter was referred to United States Magistrate Judge Robert S. Carr for pre-trial proceedings and a Report and Recommendation ("Report"). On November 10, 2009, the Magistrate Judge issued a Report recommending that this matter be dismissed without prejudice with leave to refile within the applicable statute of limitations, or that this matter be dismissed with prejudice due to Plaintiff's failure to prosecute. The Magistrate Judge advised Plaintiff of the procedures and requirements for filing objections to the Report and the serious consequences if he failed to do so. Plaintiff has filed no objections to the Report and the time for doing so has expired. Defendants have filed a response in opposition to the Magistrate Judge's recommendation that this matter be dismissed without prejudice.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the court. *See Mathews v. Weber*, 423 U.S. 261 (1976). The court is charged with making a *de novo* determination of any portion of the Report of the Magistrate Judge to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. *See* 28 U.S.C. § 636(b). The court reviews the Report only for clear error in the absence of an objection. *See Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating that “in the absence of a timely filed objection, a district court need not conduct a *de novo* review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.”) (citation omitted).

After reviewing the record of this matter, the applicable law, and the Report and Recommendation of the Magistrate Judge, the court declines to adopt the Report of the Magistrate Judge. For the reasons below, Defendants’ motion for summary judgment is **granted** and this matter is dismissed with prejudice.

The Magistrate Judge provided Plaintiff more than ample opportunity to respond to Defendants’ motion for summary judgment. Therefore, to dismiss this matter without prejudice and allow Plaintiff to refile at a later date would allow litigants to employ vexatious litigation to harass defendants. Moreover, it is clear that Plaintiff wants to prosecute his case, just not in a manner designed to withstand Defendants’ motion for summary judgment.

Therefore, for the reasons stated by Defendants, with which this court agrees and adopts, Defendants’ motion for summary judgment is **granted**, and Plaintiff’s federal causes of action are

dismissed with prejudice. To the extent Plaintiff asserts state law claims, the court declines to exercise supplemental jurisdiction over them and they are dismissed without prejudice.<sup>1</sup>

**IT IS SO ORDERED.**

s/ Cameron McGowan Currie  
CAMERON MCGOWAN CURRIE  
UNITED STATES DISTRICT JUDGE

Columbia, South Carolina  
January 28, 2010

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<sup>1</sup>All other pending motions, including Plaintiff's motion to amend, filed August 31, 2009, are **denied**.